NUMB. 12

The Daily Gazetteer.

SATURDAY, JULY 12. 1735.

The ANCIENT CONSTITUTION *consider'd.*

HAVE already obſerved, that the Author I am contending with about the *ancient Conſtitution*, and *the Antiquity of Parliaments*, is abſolutely ignorant of *the Meaning* of the Words which he quotes from *old Records* and Hiſtories. He finds the Words, *King*, *Parliament*, and *People*; and then weakly imagines, that, by theſe Words, are ſignified *the ſame Ideas* that we annex to *King*, *Parliament*, and *People* at this Time; but in this he is groſly miſtaken, and *that Miſtake* is the *Foundation* of almoſt all his Errors.

NOTHING is more common than to give *new Ideas* to, or vary the Signification of Words (which are *arbitrary*, and *not fixed* to a certain determinate Meaning) and ſo throw an Obſcurity upon ancient Writings. There are not more *diſtinct* and *different Ideas* under any two Words, than under the Words, *King* and *Parliament* of *France*, and *King* and *Parliament of England*; and they are full as *different* between a King and Parliament of *England*, from the *Norman Conqueſt* down to *Edward the Firſt*, and a King and Parliament of *England ſince the Revolution*.

WILLIAM the *Firſt*, and his *Succeſſors*, during ſeveral Ages, were *grand Landlords* of the Kingdom, and the *King* was the *only abſolute Freeholder*. The *Lands* of *England* were all *Royal*, which the King parcelled out to his *chief Followers*, upon Condition of *perſonal Service*; but a King of *England*, at this Time, is ſo far from being *Landlord* of the Kingdom, that he has very little Land in the Kingdom; and *all perſonal Service is* now *ſtroyed*. All the People, in the Times we are ſpeaking of, *held their Lands*, either *immediately* or *mediately* from the *King*, and ſo were *dependent* upon *him*; but now the Tables are turned, *the People* have got the Lands, and the KING is *dependent* upon *them*.

THERE is as great a Difference in *the Ideas* annexed to the Word *People*, as uſed in *ancient Books* and *at preſent*: When our *old Records*, *Writs*, and *Hiſtories* uſe the Words, *Communitas Angliæ*, *Communitas Anglorum*, *Communitas Populi*, *Clerus & Populus*, &c. (which our Author calls *the People*, *the People of England*, and THE WHOLE PEOPLE) no more was meant by thoſe Words, than *the Gentlemen* who *held their Lands* of the King in *chief*; and when *Clerus & Populus* are joined, the Word *Populus* ſignifies only *the Laymen*, who held thoſe Lands, as diſtinguiſhed from *the Clergy*; and when the Words *Communitas Populi* come after *Prelati*, *Barones & Magnates*, they ſignify only *the King's leſſer Tenants in Capite*. For the Truth of this I need not cite any Authorities; becauſe it is *evident* to every Man who has made *Antiquity his Study*, and not, like our *Author*, careleſly or blunderingly run over a few *Books*, *Abridgements* or *Indexes*.

'TIS very plain to all who thoroughly underſtand the State of the Kingdom in thoſe Days, that *the Perſons*, who are called *the People* in the old Records, were very *few* in Number; they were only *the Landholders*. And in the Reign of the Firſt *Norman*, as appears by Doomsday Book, there were not above *ſixteen or ſeventeen Freeholders* (as we *now* call them) in *Dorſetſhire*; and, in all Probability, not a *Thouſand* in the Kingdom; theſe are *our Author's People of England*, by, THE WHOLE PEOPLE; whereas, at preſent, there are near *Two hundred thouſand Freeholders*, and almoſt as many *Freemen*; that is, about *Four hundred Thouſand Freemen* to *One*: *One*, did I ſay? There was, properly ſpeaking, *one Freeholder* but the *King*; for the People held all their Lands of him (as we have obſerved) mediately or immediately, and paid him *perſonal Service* for them. This was *the Condition* of *their Tenure*, and this was *the Law of England*; ſo that then the Landholders were *Slaves by Law eſtabliſhed*: for every Man, *whoſe Perſon* is at the Command of another, *is a Slave*; and if he is at the Command of another *by Law*, he is then *a Slave by Law*. And *the People*, who had no Share of Land (which were at leaſt one hundred and ninety-nine in a Thouſand) were the *Property* of thoſe who held the Lands. The Truth of theſe Things appears even from *Magna Charta* itſelf, the Article of which is, 'That no Widow ſhall be 'compelled (for that was the Cuſtom) to marry, if ſhe 'be deſirous to live ſingle; *provided* ſhe gives Secu-'rity not to marry *without Our Leave* (that is, *the* 'King's Leave) if ſhe hold of Us; or without *the Lord's* 'Leave of whom ſhe holds.' Wonderful Favour truly! This is *ancient Liberty!*

OUR Author calls *theſe Facts*, *infamous Poſitions*; and ſays, he is aſhamed to name the *Wretch* who affirms them. I affirm them, and deſire he would, for the future, name me; for I know *no Infamy* in ſpeaking Truth; and the Truth is, that, in thoſe Days, there was *one continued Chain of Vaſſalage*, from the *King* down to the *meaneſt Slave*; and this Chain of Vaſſalage was according to *the Law of England*. Sir *Robert Cotton*, one of our beſt Antiquaries, ſays, 'That *the People* 'were brought under by the Sword of *William* and 'his Followers, to *ſubjected Vaſſalage*. What Land 'the *King* did not keep as the Demeſnes of the Crown, 'or reſerved not in Piety for the Maintenance of the 'Church, he parted to thoſe Strangers that ſailed 'along with him in the Bark of his Adventure, leave-'ing *the People*, as appears by his Survey, in no better 'Condition than *Villenage* or *Vaſſalage*. To ſupply 'his Occaſions of *Men*, *Money*, and *Proviſions*, he 'ordered, That all ſhould hold their Lands by ſo 'many *Knights Fees of the Crown* (that is, hold it *as* 'Soldiers, Sword in Hand, to fight when *he ſummoned* 'them) and he admitted them to infeoff their Follow-'ers: This Courſe provided him *the Body* of his War; 'the *Money* and *Proviſions* were, by *Hydage*, aſſeſſed on 'the *under Tenants*, at the *Conſent of their Lords*, who 'held in all their Signiories *ſuch Right of Regality*, that, 'to their Vaſſals, as *Matt Paris* ſays, *quot Domini tot* 'Tyranni. —— And farther he ſays (ſpeaking of the 'Times 200 Years after the Conqueſt) there was no 'Need to adviſe with the *Commons* in any publick 'Aſſemblies, when *every Man in* England, *by Tenure*, 'held himſelf to *his great Lord's Will*, whoſe Preſence 'was ever required in *thoſe Great Councils*, and in 'whoſe *Aſſent* his *dependent Tenant's Conſent* was ever 'included.' ——— But *Authorities* are endleſs; I could produce a Thouſand to prove the Truth of this Propoſition, That *the old Engliſh were Slaves by virtue of the Conſtitution*; or, *Slaves by Law eſtabliſhed*.

NOW for the other Part of my Propoſition, That *the Parliaments* of thoſe Days were neither *compoſed* of *the People*, nor *choſen* by *the People*. This Propoſition our Sagacious Author calls *an Infamous Poſition* in his firſt Paper; and has placed the Words *in Capitals*, to ſtrike the Mob with Horror, and ſet 'em o' crying for the Honour of their Anceſtors; and yet in his Paper of *Saturday* laſt, he has *own'd the ſame Thing*: Here are his Words: 'The Perſons who COMPOSED theſe Aſ-'ſemblies (Parliaments) in ancient Times, TOOK 'THEIR SEATS there by virtue of *certain Tenures*, 'and NOT BY ELECTION OR DELEGATION, as 'they do at preſent.' Good God! was there ever ſo unfortunate an Author, to demoliſh, in two Lines, and, at one bold Stroke, that vaſt Building which he has been, theſe two or three Years erecting! He has here *aſſerted* every Thing I have contended for; but, as *his Aſſertion* ſignifies nothing, I will *prove* the Truth of it, even from King *John's Magna Charta*, which, 'He 'affirms (in *abſolute Contradiction* to what I have now 'quoted from him) *clears and aſcertains the Right of the* 'Commons, in ſo diſtinct a Manner, that *he thinks* no 'reaſonable Man can pretend to deny it.' *He thinks!* it is the higheſt Preſumption *in this Man*, to imagine, *that he Thinks!*

THE Words, in *Engliſh*, of King *John's Magna Charta* are theſe; 'We will cauſe to be ſummoned 'the *Archbiſhops*, *Biſhops*, *Abbots*, *Earls*, and *the Great* 'Barons of the Kingdom *ſeverally*, *by our Letters*; 'and moreover, we will cauſe to be ſummoned, IN 'GENERAL, *by our Sheriffs*, and *Bailiffs*, *all others* 'which hold of us in Capite, at a certain Day.'

BY this Law, the *Way* and *Manner* of Summons to great Councils was *ſettled*, and made more eaſy; for, by the former Writ the 15th of *John*, it appears to have been the Cuſtom for the King to write to *every one* of the *Milites & Fideles*, or, *Tenants in Capite* (which were no *formal Barons*,) *particularly*, as he did to *the Barons*: And that the Cuſtom was ſo, is likewiſe implied in this Eſtabliſhment for the future, that it ſhould be by *particular Writs* to every *great Baron*; and, *in general*, to *all Tenants in Capite*, by Writs directed to *the King's Sheriffs and Bailiffs*. Hence 'tis alſo evident, *That only the Archbiſhops*, *Biſhops*, *Earls*, *Barons*, and *Tenants in Capite* were ſummoned to *Great Councils or Parliaments*; for, if *any other* were to have been ſummoned, Care would have been taken to *ſettle the Way of Summons* to them, as well as thoſe mentioned: And 'tis as evident from hence who were the Conſtituent Parts or Members of Parliaments, not the Commons (in the Senſe of that Word at this Time) which appears beyond all Doubt from the Practice and Uſe of *Magna Charta*, confirmed by a clear Record 20 Years after. Here it is.

'THE King to the Sheriff of *Suſſex*, Greeting: 'Know ye, that the *Archbiſhops*, *Biſhops*, *Abbots*, *Priors*, 'Earls, *Barons*, and *all others of our Kingdom which* 'HOLD OF US IN CAPITE, have granted Us an 'effectual Aid, &c.'

FROM theſe Premiſes, and others which might be produced, ſufficient to fill a Folio, 'tis evident, that *the Conſtituent Parts* of the Parliaments of thoſe Days; or, the Perſons of which they were *compoſed*, were not *the People*; nor, were they *choſen* by the People; but, when the King wanted a Council, he ſent for the *greater Tenants*, by *particular Letters*, and ordered the Sheriffs to ſend ſome of the *ſmaller Tenants*: But the *People* (who were, I ſay, 999 in a Thouſand) *choſe* nobody; for, theſe *greater* and *leſſer Tenants*, were *Hereditary Members* of Parliament, ſent for by the King, to ſit in Council *by Virtue of their Tenures*, but *not choſen* by the People.

THESE Tenants *by Military Service*, were alſo *the only Legales Homines*, or, *Legal Men* that *named* and *choſe Juries*, and *ſerved on Juries themſelves*, both in the County and Hundred Courts; and, in all Probability, were the *Men* who, at firſt, *elected Two Knights* in every County out of the *Tenants in Capite*; and only they, as *Suitors* to the County Courts, were *Electors*; when *the Body of them* began to be *Repreſented* in Parliament.

BUT theſe, with other Things, which will farther *illuſtrate* and *confirm* what I have advanced, ſhall be the Subject of another Diſcourſe.

F. OSBORNE.

LONDON.

The Right Hon. the Lords of the Admiralty have been pleaſed to order his Majeſty's Ship the Dover, a 40 Gun Ship, to be laid upon the Stocks at Deptford to be rebuilt.

A curious fine Structure is erecting at Wentworth Woodhouſe, the Seat of the Right Hon. the Earl of Malton in Yorkſhire, under the Direction of Mr. Fliteroft, which, when finiſhed, 'tis thought, will be one of the grandeſt Deſigns in the Kingdom.

Laſt Thurſday one Drinkwater was removed by Habeas Corpus, from Newgate, to Chelmsford Jail, in order to take his Trial at the enſuing Aſſizes for the County of Eſſex, for robbing Mr. Baws on the Highway, of his Hat, Wig, a Gold Ring, and 13 s. in Money.

A Preſentation hath lately paſſed the Great Seal, appointing the Rev. Mr. Yates of Whitehaven, to hold the Rectory of Slateburne, in the County and Dioceſe of York, a Living worth 300 l. a Year, to which he was lately preſented by Henry Marſden, Eſq; Patron of the ſaid Church, upon the Death of the Rev. Mr. Rutter the laſt Incumbent.

His Grace the Duke of Bridgewater has matched his Horſe, Poker, againſt the Right Hon. the Lord Walpole's Mare, Slammekin, which won the King's Plate at Newmarket in April laſt, 10 Stone, 4 Miles, for 200 Guineas each, half forfeit. The ſaid Match is to be run at the firſt Meeting at Newmarket in October next.

Yeſterday about one o'Clock in the Afternoon, the Right Hon. Sir Robert Walpole ſet out from his Houſe in St. James's Square, for his Seat at Houghton-Hall in Norfolk, accompanied by the Right Hon. the Earl of Iſlay.

Laſt Thurſday Night about 8 o'Clock, Mr. Vane of Richmond, and Mr. James Bradford of the Borough of Southwark, going from thence to Richmond, were attacked between Wandſworth and Barns Commo-

by two Highwaymen, ſuppoſed to be Turpin the Butcher, and Rowden the Pewterer, the remaining two of Mr. Gregory's Gang, who robbed them of their Money, &c. diſmounted them, made them pull off their Horſes Bridles, then turning them adrift, they rode off towards Rochampton, where a Gentleman was robbed, as is ſuppoſed, by the ſame Highwaymen, of a Watch, and about 3 l. 4 s. in Money.

This Day ſeveral of the Judges will ſet out in order to hold their Circuits for the Summer Aſſizes, which begin next Week at the following Places, viz.

Monday, at the Town of Buckingham for the County of Bucks; at Abingdon for the County of Berks; at the City and County of York.

Tueſday, at Northampton.

Wedneſday, at the Caſtle of Winton for the County of Southampton; at Oxford for the County of Oxford.

Thurſday, at Bedford for the County of Bedford.

Friday, at Ockham for the County of Rutland:

And on *Saturday*, at New Sarum for the County of Wilts; at Huntingdon for the County of Huntingdon, and at Worceſter for the County of Worceſter.

Laſt Saturday died at the Bath, Joſeph Hugget, of Bridgenorth in the County of Salop, Eſq; a Gentleman of a very plentiful Fortune, and one of his Majeſty's Juſtices of the Peace for the ſaid County, who married Mary the ſole Daughter and Heireſs of —— Lane, of Hereford, Eſq; by whom he has left a Son and Heir about 10 Years of Age, and a Daughter.

On Thurſday laſt John Dowſe of Fullham, Eſq; was married to Miſs Lynn, a young Lady of a conſiderable Family and Fortune.

Yeſterday being the Wedding-day of their Graces the Duke and Dutcheſs of Portland, his Grace gave a Grand Entertainment at his Houſe in the Privy Garden at Whitehall, to ſeveral Perſons of Diſtinction on that Occaſion.

The Right Rev. Dr. Chandler, Lord Biſhop of Durham, has preſented the Rev. Dr. Chandler, his Son, to the Prebend of Durham, and Maſterſhip of the Hoſpital there, which fell to his Lordſhip's Diſpoſal, on the Preferment of the Reverend Dr. Rundle to the Biſhoprick of Londonderry.

To morrow, at the Oratory, in the Morning, will be an Expoſition on the Authority of the Talmud; an Oration on the World before the Creation, a Propoſal for Diſpute. In the Evening, a Lecture on Dr. Waterland's Fundamentals, and a publick Diſputation, as challeng'd, "Whether it be lawful for a Woman "to preach the Goſpel.

Yeſterday Bank Stock was 137 1-half to 138. India 148 1-half, for the Opening. S. Sea 82, for the Opening. Old Annuity 106 1-4th. New ditto 106 5-8ths, for the Opening. Three per Cent. Annuity 94, for the Opening. Royal-Aſſurance 97 3-4ths, for the Opening. London-Aſſurance 12, for the Opening. African 15. India Bonds 41. 13 s. Premium. Three per Cent. ditto 21. 15 s. Premium. S. Sea Bonds 31. Premium. Bank Circulation 81. Premium. Salt Tallies 31. 5 s. Premium. Engliſh Copper 21. 1 s. Premium. Welſh ditto, Books ſhut. Three 1-half per Cent. Exchequer Orders 21. per Cent. Diſcount.

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The humble addreſs of his majeſty's ſhip *Orford*, 1727.
An epiſtle to the right hon. Sir R. WALPOLE.
Verſes occaſioned by the foregoing epiſtle.
The monkey and the maſtiff; a fable: by Mr. CONCANEN.
An epilogue, ſpoken and ſung at the Theatre in Dublin, by Mrs *Sterling*.
An epiſtle to Mr. H. by a perſon of honour.
The cauſe of inconſtancy: by the ſame.
Verſes to a lady, upon his receiving a hurt in one of his eyes: by the ſame.
A fable, addreſſed to the Ld. Viſc. *Mont-caſſel*.
An epiſtle to Lord *Carteret*, occaſioned by the copper coinage: by Mr. CONCANEN.
An epiſtle to Ld. *Carteret*, &c. by Dr. D--NY.
The Dangler.
A cure for love; a tale: by Mr. CONCANEN.
An ode to the Queen, on their majeſties happy acceſſion: by the rev. Mr. NEWCOMB.
The Templer's bill of complaint to the lord chancellor.
The progreſs of poetry.
To the ingenious lady, author of, The progreſs of poetry.
A paſtoral ode.
The bridge of life: an allegorical poem, in imitation of the 15th Spectator.
Damon and Thyſbe.
Paraphraſe on pſal. 73.
To a young lady with yellow hair.
An epiſtle from a clergyman in *Hereſordſhire*, to his friend at *Chipping Ongar*.
On the burning the obſcene pieces in Lord *Rocheſter*'s works.
An epigram.
Paraphraſe on pſal. 148.
An ode to the memory of Anne dutcheſs of *Hamilton*: by ALLAN RAMSAY.
On the death of earl *Cadogan*
On Dr. *Frazier*'s rebuilding part of the univerſity of *Aberdeen*: by Mr. MALLET.
On miſs *Harvey*, being a day old: in imitation of Mr. P—e.
Supplication for miſs *Carteret*, in the ſmall-pox: by AMBROSE PHILIPS, Eſq;
To miſs *Georgiana Carteret*: by the ſame.
A nacreontique.
Damon; a city eclogue.
A hymn on the reſurrection.
Paraphraſe on Job viii.
Paraphraſe on pſal. 104. in imitation of Milton's ſtyle.
Verſes on her Majeſty's birth-day, 1727. by P. FROWDE, Eſq;
Regulus: a pindaric ode.
The carmen ſæculare of *Horace*; tranſlated by Mr. W. DUNCOMBE.
Spoken by a little boy, at his firſt putting on breeches.
Upon a lady who ſaid ſhe loved to ſurprize.
The involuntary ſinner; a tale.
An epithalamium; by a lady.
Song.
Prologue and epilogue ſpoken at the play of *Soohonisba*, acted by young Gentlemen and ladies.
Verſes on the memory of Mrs. *Oldfield*, ſpoken by Mrs. *Heron*.
To the Duke of *Richmond*, on his being inſtall'd knight of the garter, with Sir *Rob. Walpole*: by the rev. Mr. NEWCOMB.

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